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MEMORANDUM

TO: City of Beacon City Council

FROM: Nicholas M. Ward-Willis 

RE: Entity Disclosure Local Law

DATE: July 24, 2019

At Monday night's Council Meeting, a resident asked a specific question concerning the Entity Disclosure Form filled out by 23-28 Creek Drive, LLC. Section 223-61.4 of the City Code is entitled Disclosure and requires an individual or entity to complete a disclosure form which is used by the City Building Department to determine if there is a conflict of interest presented by the applicant and for other purposes. The disclosure form is provided to all reviewing Boards and their members should be reviewing it at the time of submission to determine if they have any conflict with any of the individuals listed in the disclosure form.

The question with regard to the 23-28 Creek Drive LLC Entity Disclosure Form was that in Section B, only one individual's name was listed as a member of the LLC. As the resident acknowledged last night, it is possible for an LLC to only have one member, but in her opinion, she questioned whether that was the case for this particular entity. The City Administrator reached out to representatives for 23-28 Creek Drive LLC and was advised there is only one (1) Member of the LLC and the corporate stock is not being pledged, mortgage etc.

Be advised that there is no publicly available form that discloses the identity of the members of an LLC or, for that matter, the identity of shareholders. Therefore, all documents that we might request to disclose the shareholders or members of the corporation will be internally generated documents. For example, an LLC has an operating agreement that would typically list the members of the LLC, but we have to have confidence that we are being provided with the most current list and that there not subsequent amendments. There is a K-1 Form filed with the LLC member's personal income tax return and we could ask for copies of all K-1 Forms but again, there is no master list so we could only be provided with, for example, eight out of the ten K-1 Forms that were generated for that particular LLC. Like many of the forms provided by the City, we are relying on people to be honest. Fact checking can occur by Board Members asking questions of the applicants, but again if they are being dishonest in filling out a form, it is likely they will be dishonest when answering the question.

The current entity and disclosure form requires that all principal (members, shareholders, etc.) of an entity be disclosed. While I understand one can only question if people are being honest, is this a concern?

I've attached for your convenience a copy of Section 223-61.4 and the Entity Disclosure Form completed by 23-28 Creek Drive, LLC.

Let me know if there are any questions. This matter will be discussed at the July 29, 2019 Workshop as requested.

NMW/lt

Encl.

cc: Anthony Ruggiero